

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
1998 Biennial Regulatory Review –	)	CC Docket No. 98-171
Streamlined Contributor Reporting	)	
Requirements Associated with Administration	)	
of Telecommunications Relay Service, North	)	
American Numbering Plan, Local Number	)	
Portability, and Universal Service Support	)	
Mechanisms	)	
	)	
Telecommunications Services for Individuals	)	CC Docket No. 90-571
with Hearing and Speech Disabilities, and the	)	
Americans with Disabilities Act of 1990	)	
	)	
Administration of the North American	)	CC Docket No. 92-237
Numbering Plan and North American	)	NSD File No. L-00-72
Numbering Plan Cost Recovery Contribution	)	
Factor and Fund Size	)	
	)	
Number Resource Optimization	)	CC Docket No. 99-200
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170

**COMMENTS OF  
MONTANA INDEPENDENT TELECOMMUNICATIONS SYSTEMS**

By: Michael C. Strand  
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## SUMMARY

Montana Independent Telecommunications Systems (MITS)<sup>1</sup> hereby files its initial comments in response to the Federal Communications Commission's (Commission's or FCC's) Report and Order and Second Further Notice of Proposed Rulemaking (Report and Order or 2<sup>nd</sup> FNPRM) in the above captioned proceeding<sup>2</sup>. MITS is a group of independent and cooperative telephone companies that provide a variety of services to customers who happen to live and work in some very remote parts of the United States. Our service areas also include some extremely economically depressed areas.

These companies provide not only basic services supported by the federal universal service mechanisms (USF), they also offer non-supported local and long distance, wireline and wireless services, dialup and dedicated Internet access (including DSL service to nearly 150 communities with populations under 2,000). These companies have also joined together to ensure the availability and affordability of services such as SONET transport, interactive video conferencing and data center services.

MITS member companies have been providing high quality services to rural Montana and parts of Wyoming, North Dakota and Nevada since the late 1940s. Our customers rely on us to provide services that are comparable in price and functionality to those enjoyed by subscribers in

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<sup>1</sup> MITS' members include Central Montana Communications, Interbel Telephone Cooperative, Nemont Telephone Cooperative, Northern Telephone Cooperative, Project Telephone Company, Triangle Telephone Cooperative Association, and Valley Telecommunications, all headquartered in Montana as well as CC Communications, Inc., headquartered in Fallon, NV.

<sup>2</sup> *In the Matter of In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 1998 Biennial Regulatory Review –Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanism, CC Docket No. 98-171, *Telecommunications Services for Individuals with Hearing and Speech Disabilities*, and the Americans with Disabilities Act of 1990, CC Dockets No. 90-571, *Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size*, CC Docket No. 92-237, NSD File No. L-00-72, *Number Resource Optimization*, CC Docket No. 99-

urban areas. We, in turn, have relied for decades on support mechanisms such as the federal universal service fund to enable us to provide access to basic local service. Due to low customer densities and the high costs (often exceeding \$100/loop/month) associated with providing service in some of the most rugged, isolated parts of the United States, absent the federal support mechanisms telecommunications services would certainly not be available at affordable rates to consumers in these areas, and in many cases, the services would simply be unavailable.

MITS specifically recommends that the Commission refrain from adopting any of the connection-based contribution proposals contained in the 2<sup>nd</sup> FNPRM because the current revenue-based system continues to effectively achieve the statutory goals of funding USF in an equitable, competitively neutral and non-discriminatory manner. There is not enough evidence at this time to support a conclusion that the revenue-based assessment mechanism is not sustainable.

Furthermore, the revenue-based system has already undergone several revisions, modifications and improvements as it has evolved, such as those adopted in the recent Report and Order. MITS urges the Commission to continue to consider modifications to the current assessment mechanisms where necessary, and also to allow adequate time to evaluate whether and the extent to which the recent modifications will address concerns associated with the sustainability of the funding mechanism before making the types of sweeping changes to the contribution system proposed in the 2<sup>nd</sup> FNPRM.

In addition, there are a number of other ongoing proceedings that may have significant impacts on the revenue base from which USF funding is drawn. The Commission should await

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200, *Telephone Number Portability*, CC Docket No. 95-116, *Truth-in-Billing and Billing Format*, CC Docket No. 98-170.

resolution of these proceedings which could in some cases, potentially expand the revenue base from which USF funding is drawn.

**I. THE CURRENT REVENUE-BASED SYSTEM CONTINUES TO EFFECTIVELY ACHIEVE THE STATUTORY GOALS OF FUNDING USF IN AN EQUITABLE, COMPETITIVELY NEUTRAL AND NON-DISCRIMINATORY MANNER.**

Although some form of a connection-based contribution mechanism is a potentially viable method for funding the Nation's universal service programs in the future, and the Commission is to be commended for providing a forum in which issues surrounding such methods could be explored, we do not support adopting a connection-based contribution mechanism at this time.

The assessment and recovery of universal service contributions are governed by the statutory framework established by Congress in the Act.<sup>3</sup> The clear language in Section 254(b) instructs the Commission to base universal service support mechanisms on the principle that there be specific, predictable and sufficient mechanisms to ensure that quality services be available at just, reasonable and affordable rates to Americans in all regions of the nation. Section 254(d) also requires every telecommunications carrier that provides interstate telecommunications services to contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.

The current revenue-based system continues to achieve the statutory goals of funding USF in an equitable, competitively neutral and generally non-discriminatory manner. The Commission adopted a revenue-based contribution mechanism in the first place because after a thorough, comprehensive analysis, it was determined that such a mechanism best met the goals and policies expressed in the Act.<sup>4</sup> There is no reason to change that conclusion at this time. No

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<sup>3</sup> Communications Act of 1934, as amended, 47 U.S.C. §§ 201, 202, 254. The Telecommunications Act of 1996 amended the Communications Act of 1934. *See* Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act).

<sup>4</sup> *See Report and Order*, CC Docket No. 96-45, Released May 8, 1997, Paragraphs 842 - 857.

clear and convincing evidence has been presented that the current system should be replaced or that any replacement mechanism would be more sustainable over time, or for that matter, more equitable, nondiscriminatory, competitively neutral or less administratively burdensome.

**II. THE COMMISSION SHOULD REFRAIN FROM MAKING ADDITIONAL MODIFICATIONS TO THE CONTRIBUTION MECHANISM TO ALLOW ADEQUATE TIME TO MEASURE THE RESULTS OF THE RECENT "INTERIM" CHANGES ADOPTED IN THE 2<sup>ND</sup> FNPRM.**

The revenue-based system has undergone various revisions, modifications and improvements as it has evolved, such as those adopted in the recent Report and Order. MITS urges the Commission to continue to consider modifications to the current assessment mechanisms where necessary, but to allow adequate time to evaluate whether and the extent to which the recent modifications will address concerns associated with the sustainability of the funding mechanism for the USF before making the types of sweeping changes to the contribution system proposed in the 2<sup>nd</sup> FNPRM. Not only is this sound policy, it will help minimize consumer impacts that could result from overly frequent policy changes.

Although some of the connection-based funding proposals under consideration would largely allow interexchange carriers to escape USF funding responsibility (with possible sec. 254(d) concerns), end users would essentially experience "local rate" increases with no certainty that interexchange carriers would flow through their savings to toll rates, especially rates available in rural areas (where oftentimes discount toll plans available in other parts of the nation are not offered).

Also, the contribution scheme should not overburden the very customers the system is designed to help. Implementation of the proposed mechanisms could exacerbate billing impacts from ongoing changes such as SLC increases and the imposition of other end user charges such as number portability, 911, single bill charges, and state excise tax surcharges.

### **III. THE COMMISSION SHOULD AWAIT RESOLUTION OF ONGOING PROCEEDINGS THAT COULD POTENTIALLY IMPACT THE SUSTAINABILITY OF THE CURRENT REVENUE-BASED USF CONTRIBUTIONS MECHANISM.**

There currently are a number of ongoing proceedings investigating whether or not some fairly significant USF-related policy changes are warranted. Several of these changes under consideration could potentially mitigate concerns over the sustainability of the current revenue-based contributions mechanism. For example, the Commission is currently investigating whether, in an evolving telecommunications marketplace, facilities-based broadband Internet access providers should be required to contribute to support universal service.<sup>5</sup> The outcome of this proceeding may significantly expand the revenue base on which USF contributions is drawn.

Another proceeding that could potentially impact the sustainability of the current contribution methodology relates to the *Recommended Decision* released on July 10, 2002 by the Federal- State Joint Board on Universal Service in CC Docket No. 96-45. In that proceeding, one of the issues under consideration is whether or not equal access to interexchange carriers should be added to the list of supported services for purposes of qualifying for "eligible telecommunications carrier" (or ETC) status. If equal access is added to the list of required services many CMRS carriers currently designated as competitive ETCs may lose such designations thus reducing, or at least slowing the growth in the size of the USF.

Other changes, such as BOCs gaining approvals to enter the interstate marketplace and increasing interstate traffic carried by wireless providers (notwithstanding the "equal access" issue described above), are impacting the market share of "traditional" interstate carriers (which have historically provided the majority of contributions toward USF). However, declines in the

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<sup>5</sup> See *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, Universal Service Obligations of Broadband Providers*, CC Docket No. 02-33, Notice of Proposed Rulemaking, 17 FCC Rcd 3019 (2002) (*Broadband NPRM*).

revenue base reported by these carriers should be offset, at least in part, by increases in the interstate revenue bases from BOCs and wireless carriers.

## **CONCLUSION**

While we strongly support the efforts by the Commission to address the statutory goal of maintaining a universal service program that is "specific, predictable and sufficient" to preserve and advance universal service, abandonment of the current contribution mechanism in favor of one of the connection-based mechanisms seems unnecessary and may create more problems than it attempts to resolve.

The current system, which has been remarkably effective and efficient, shouldn't be discarded without considering potential fixes to identified problems. The revenue-based system has already undergone several revisions and improvements as it has evolved. The Commission should continue to consider modifications to the current assessment mechanisms (such as expanding the revenue base from which contributions are drawn to include broadband access providers) where necessary.

The Commission should allow adequate time to evaluate whether and the extent to which the recent changes adopted in the Report and Order will address concerns associated with the sustainability of the funding mechanism for the USF before making changes to the contribution system that may address the concerns of some carriers, but may also have unintended adverse consequences for other carriers and consumers.

Finally, the Commission should consider awaiting the resolution of other related proceedings that could impact the sustainability of the current contribution mechanism before making the types of sweeping changes proposed in the 2<sup>nd</sup> FNPRM.



MITTS appreciates the effort involved in preparing the recently released Commission staff study<sup>6</sup> regarding the alternative contributions methodologies and plans to submit comments in response to that study. After our analysis of the study, we may revise or modify one or more of our positions on the proposed contribution mechanisms.

Respectfully submitted,

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<sup>6</sup> See *Public Notice*, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, and NSD File No. L-+00-72.